

## **Rule 12. Determination to require an answer.**

1. The commission shall review all reports of the investigation to determine whether there is sufficient reason to require the respondent to answer. If there is insufficient reason to proceed, the commission may dismiss a complaint with or without a letter of caution. A cautionary letter is not to be considered an event of discipline. The commission may take into consideration a dismissal with a letter of caution in subsequent complaints against a respondent when considering the appropriate discipline to be imposed.
2. If the commission determines it could in all likelihood make a determination that there is a reasonable probability the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action, it shall require the respondent named in the complaint to respond.
3. The commission shall serve the complaint upon the respondent who shall have 30 days in which to respond to the complaint. Failure of the respondent to answer the complaint shall be deemed an admission that the facts alleged in the complaint are true and establish grounds for discipline.
4. In preparing to oppose a determination of probable cause, the respondent has the right to inspect all records of the commission relating to the disciplinary action against the respondent and to be fully advised as to the contents of the administrative record considered by the commission determining that there was sufficient reason for probable cause. Privileged communications and work product of the commission's counsel are not subject to inspection. To the extent practicable, the respondent shall be supplied with all records of the commission subject to inspection along with service of the complaint.
5. Amendment of allegations in the complaint, prior to a finding of probable cause, may be permitted by the commission. The respondent shall be given notice of any amendments, and additional time as may be necessary to respond to the complaint.
6. The commission investigator may compel by subpoena the attendance of witnesses and the production of pertinent books, papers and documents for purposes of investigation. Subpoenas must be issued by the executive director of the commission in the same manner as subpoenas are issued by clerks in the district courts of this state.